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Federal Communications Commission  
Office of the Secretary

RECEIVED

OCT 2 1981

POLE ATTACHMENT  
BRANCH

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

October 20, 1981

Federal Communications Commission  
1919 M Street N.W.  
Washington, D.C. 20554

Re: Jurisdiction over CATV  
Pole Attachments (American  
Utility Television and  
Communications Corporation  
et al. vs. Public Service  
Commission, etc., et al.  
Civil Action No. 81-CI-1249,  
Franklin Circuit Court,  
Commonwealth of Kentucky)

Gentlemen:

Enclosed find a certified copy of "Order No. 2" of  
Division I, Franklin Circuit Court, Kentucky, entered  
October 5, 1981, dissolving the restraining order hereto-  
fore entered on September 14, 1981.

This is the restraining order mentioned in your  
Public Notice of October 6, 1981, (003821) in its third  
literary paragraph, as directing this Commission to refrain  
from exercising jurisdiction over pole attachment rates.

You will also note that KRS 278.390 provides, in  
relevant part, that:

...Every order entered by the commission shall  
continue in force until the expiration of the time  
if any, named by the commission in the order, or  
until revoked or modified by the commission,  
unless the order is suspended, or vacated in  
whole or in part, by order or decree of a court  
of competent jurisdiction.

Federal Communications Commission  
October 20, 1981  
Page Two

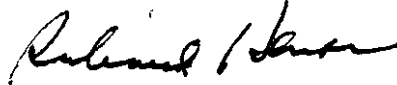
Therefore, the Commission's Order of August 26, 1981, is restored to the force it had when supplied to you on August 31 and September 14, 1981, and as certified by the Commission on October 7, 1981.

This certified copy of the Court's Order No. 2 is furnished to you to enable you to recognize this Commission's action in asserting jurisdiction over CATV pole attachments, and to comply with 47 U.S.C. § 224.

Thank you.

Very truly yours,

PUBLIC SERVICE COMMISSION



Richard D. Heman, Jr.  
Secretary

RDH/cb

Enclosure

AOC-79-060

Rev. 9-79

Commonwealth of Kentucky  
Court of Justice



**CERTIFICATION  
OF COURT RECORDS**

Case No. **81 CI 1249**

County **Franklin**

Court **Circuit**

I, **Eunice Moore** Clerk of the **Circuit** Court,  
do certify that the following are true and correct copy(s) of the  
**Order No. 2 filed October, 5, 1981.**

as recorded in the Office of the Circuit Clerk of **Franklin** County.

In TESTIMONY WHEREOF witness my hand as Clerk aforesaid, this the

**15** day of **October, 1981.**

**Eunice Moore**

Clerk

By: Wanda Holder D.C.

FRANKLIN CIRCUIT COURT  
DIVISION I  
81-CI-1249

AMERICAN TELEVISION AND  
COMMUNICATIONS CORPORATION, et al

PLAINTIFFS

**FILED**

v.

PUBLIC SERVICE COMMISSION, ETC., et al

OCT 5 - 1981

DEFENDANTS

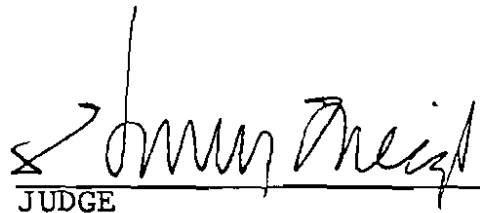
EUNICE MOORE  
Clerk, Franklin Circuit Court

\* \* \* \* \*

ORDER NO. 2

\* \* \* \* \*

On motion of various parties defendant, the  
Temporary Restraining Order heretofore entered on September  
14, 1981, is hereby dissolved.

  
JUDGE

Entered: October 5, 1981



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

October 7, 1981

RECEIVED

OCT 14 1981

POLE ATTACHMENT  
BRANCH

Mr. Jay L. Witkin  
Chief, Tariff Division  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D. C. 20554

Dear Mr. Witkin:

We enclose further Certification that the Kentucky Public Service Commission regulates pole attachment rates, terms and conditions.

Very truly yours,

PUBLIC SERVICE COMMISSION

Richard D. Heman, Jr.  
Secretary

RDH/jc

Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
OCT 14 12 12 PM '81  
TARIFF DIVISION

In the Matter of

THE REGULATION OF RATES, TERMS  
AND CONDITIONS FOR THE PROVISION  
OF POLE ATTACHMENT SPACE TO CABLE  
TELEVISION SYSTEMS BY TELEPHONE  
COMPANIES

CASE NO. 8040

RECEIVED

and

In the Matter of

THE REGULATION OF RATES, TERMS  
AND CONDITIONS FOR THE PROVISION  
OF POLE ATTACHMENT SPACE TO CABLE  
TELEVISION SYSTEMS BY ELECTRIC  
UTILITIES

POLE ATTACHMENT  
BRANCH

CASE NO. 8090

CERTIFICATION

TO THE FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

WHEREAS, by Order of August 26, 1981, this Commission determined that it has jurisdiction to regulate the rates, terms and conditions of cable television pole attachments to utility poles of utilities under our regulatory jurisdiction under Chapter 278, Kentucky Revised Statutes, and that this Commission has the authority to consider, and does consider, the interests of subscribers of cable television services as well as the interests of the consumers of the utility services, as provided in 47 U.S.C. § 224(c)(2), and

WHEREAS, by the same Order this Commission directed its Secretary to certify the same to the Federal Communications Commission, and

WHEREAS, the Secretary of this Commission, in compliance with said directive of this Commission did, on August 31, 1981, certify the same to the Federal Communications Commission, and

WHEREAS, on September 9, 1981, the Secretary of this Commission did further certify to the Federal Communications Commission a copy of the aforesaid Order of this Commission entered August 26, 1981, in an attempt to comply with the aforesaid Order of this Commission and the requirements of the Federal Communications Commission with respect to the same subject, and

WHEREAS, the Federal Communications Commission has refused to honor the certification of the Secretary of this Commission as aforesaid,

NOW, THEREFORE, the Commission, having reviewed this matter, and being advised, does hereby CERTIFY:

1. That the Public Service Commission of Kentucky regulates pole attachment rates, terms and conditions of utilities under its jurisdiction, and

2. That the Public Service Commission of Kentucky has the authority to consider, and does consider, the interests of the subscribers of cable television services as well as the interests of the consumers of the utility services, as provided in 47 U.S.C. § 224(c)(2).

Done at Frankfort, Kentucky, this 7th day of October,  
1981.

PUBLIC SERVICE COMMISSION

Martin W. Voh  
Chairman

Katherine Randall  
Vice Chairman

Jim Carver  
Commissioner

ATTEST:

Richard D. Haman  
Secretary



# COLE, RAYWID & BRAVERMAN

ATTORNEYS AT LAW

SECOND FLOOR

1919 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20006

(202) 659-9750

JOHN P. COLE, JR.  
ALAN RAYWID  
BURT A. BRAVERMAN  
ROBERT L. JAMES  
THOMAS W. FLETCHER  
JOSEPH R. REIFER  
FRANCES J. CHETWYND  
MARGARET E. ROLNICK  
THOMAS HENDRICKSON  
JOHN D. SEIVER  
WESLEY R. HEPPLER  
DAVID SILVERMAN  
JAMES F. IRELAND III

CRAIG S. MCCOY

(1943-1979)

CABLE ADDRESS

"CRAB"

September 23, 1981

RECEIVED

POLE ATTACHMENT  
BRANCH

Margaret Wood  
Chief, Pole Attachment Branch  
Room No. 526  
Federal Communications Commission  
Washington, D.C. 20554

Re: Kentucky Public Service Commission  
Pole Attachment Certification

Dear Ms. Wood:

Pursuant to our discussion of today, enclosed is a copy of the Kentucky Circuit Court Temporary Restraining Order which prohibits the Kentucky Public Service Commission from attempting to enforce its alleged "certification" of pole attachment jurisdiction to the Federal Communications Commission.

Should you have any questions regarding this matter, please do not hesitate to give me a call.

Very truly yours,

*Wesley R. Heppler*

Wesley R. Heppler

Enclosure

cc w/enc: Ernest W. Williams, Esquire  
Ogden, Robertson & Marshall  
1200 One Riverfront Plaza  
Louisville, Kentucky 40202

cc w/o enc: James Ewalt, Esquire (NCTA)

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
FRANKFORT, KENTUCKY 40601  
CIVIL ACTION NO. 81-CI-1249

AMERICAN TELEVISION AND  
COMMUNICATIONS CORPORATION;

CONSOLIDATED T. V. CABLE  
SERVICE, INC.;

KENTUCKY CATV ASSOCIATION;

-and-

NATIONAL CABLE TELEVISION  
ASSOCIATION, INC.

**F I L E D**

SEP 14 1981

EDWICE MOORE  
Clerk Franklin Circuit Court  
**PLAINTIFFS**

V. TEMPORARY RESTRAINING ORDER

MARLIN VOLZ,

KATHERINE RANDALL, and

DENNIS P. CARRIGAN,

MEMBERS OF AND CONSTITUTING  
PUBLIC SERVICE COMMISSION,  
COMMONWEALTH OF KENTUCKY,

**DEFENDANTS**

---

TO: THE DEFENDANTS, MARLIN M. VOLZ,  
CHAIRMAN, KATHERINE RANDALL  
AND DENNIS CARRIGAN, MEMBERS,  
TOGETHER CONSTITUTING AND  
COMPOSING THE PUBLIC SERVICE  
COMMISSION OF KENTUCKY

A verified complaint having been filed by the plaintiffs herein-  
above named from which it appears that unless the defendants are tempo-  
rarily enjoined and restrained in accordance with the prayer of said  
complaint the plaintiffs will suffer great and irreparable harm, injury  
and damage as a result of the delay occasioned by giving notice and a  
hearing being held upon the application of plaintiffs for a temporary restrain-  
ing order; until the further orders of the court, you, and each of you, to-  
gether with your employees, agents, servants and representatives, are  
hereby temporarily enjoined and restrained from attempting or undertaking  
in any wise or manner to enforce an order dated August 26, 1981, for  
judicial review of which the above captioned action was instituted. This  
order shall issue upon the execution by plaintiffs of a bond with good and  
sufficient surety in the penal sum of \$ 500 .

Done at Frankfort, Kentucky, this 14<sup>th</sup> day of September, 1981, at  
2:45 P . M. O'clock.

*John M. Phelps*  
Judge, Division



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

September 9, 1981

Mr. Leroy Cain  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D. C. 20554

Dear Mr. Cain:

Enclosed find further certification per our discussion.

Sincerely,

PUBLIC SERVICE COMMISSION

A handwritten signature in cursive script, reading "Richard D. Heman, Jr.".

Richard D. Heman, Jr.  
Secretary

RDH/jc

Enclosures

RECEIVED  
SEP 14 10 14 AM '81  
FEDERAL COMMUNICATIONS COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

THE REGULATION OF RATES, TERMS )  
AND CONDITIONS FOR THE PROVISION )  
OF POLE ATTACHMENT SPACE TO CABLE )  
TELEVISION SYSTEMS BY TELEPHONE )  
COMPANIES )

CASE NO. 8090

RECEIVED  
SEP 14 10 15 AM '81  
TARIFF DIVISION

and

In the Matter of

THE REGULATION OF RATES, TERMS )  
AND CONDITIONS FOR THE PROVISION )  
OF POLE ATTACHMENT SPACE TO CABLE )  
TELEVISION SYSTEMS BY ELECTRIC )  
UTILITIES )

CASE NO. 8090

ORDER

On November 20, 1980, General Telephone Company of Kentucky ("General") and South Central Bell Telephone Company ("Bell") filed with the Commission a petition requesting that the Commission assert that it has jurisdiction to regulate the rates, terms, and conditions applicable to the provision of pole attachment space to cable television system operators by telephone utilities. Additionally, the petition requests that the Commission certify to the Federal Communications Commission ("FCC") that it does assert such jurisdiction and that the certification be in the form of the statutory language required by Section 224 of Title 47, United States Code.

On December 8, 1980, Kentucky Utilities Company and Louisville Gas and Electric Company ("LG&E") filed with the Commission a similar petition, requesting essentially the same relief. The petitions were consolidated for all purposes by the Commission, and a hearing was held on April 21, 1981. Kentucky Power Company intervened to join in the Petition of the other electric utilities, and American Television and Communications Corporation, Consolidated Cable Television Services, Inc., Kentucky CATV Association, National Cable Television Association, Inc., ("NCTA") and the Attorney General's Division of Consumer Intervention intervened in opposition to both Petitions.

Kentucky Power Company and LG&E have filed parallel motions to strike the brief of the National Cable Television Association, Inc., on the ground that it was mailed on May 19, 1981, rather than filed (i.e., received by the Commission's Secretary) on or before May 18, 1981, as ordered by the Commission. LG&E further asserts that a copy of said brief was mailed directly to an official of LG&E, in violation of Kentucky Disciplinary Rule 7-104(A)(1), when an attorney of record is involved in the case.

The Commission reminds NCTA of the necessity of compliance with all orders of the Commission. However, because the late filing may have been inadvertent (one day late), and because the Commission must consider all ramifications of

this matter of considerable public importance, the motions are overruled.

### BACKGROUND

There are more than 100 cable television systems in Kentucky whose cables linking subscribers are attached, for convenience, economy and aesthetic reasons, to existing utility poles in the areas served by the systems. The terms, conditions and rates for use of this space on utility poles have been the subject of private negotiation and written agreements between the affected utilities and the cable systems. Neither has heretofore asserted or invoked the jurisdiction of this Commission for permission or approval of the terms of these arrangements.

After extensive hearings, by Public Law 95-234, 92 Stat. 33, 47 U.S.C. § 224, Congress amended the Federal Communications Act so as to grant regulatory jurisdiction over cable television pole attachments to the Federal Communications Commission in those states which did not exercise such regulation, for a five year period beginning February 21, 1978.

Pole attachments on facilities of cooperative electric and telephone corporations, of which there are 40 regulated by this Commission, are specifically exempted from the federal regulation, and unless this Commission asserts jurisdiction,

would remain unregulated while other electric and telephone utilities would be regulated.

The federal act invites those states which have and will assert jurisdiction to regulate utility pole attachments to do so, and uses the language of "pre-emption" to indicate that when a state has affirmatively asserted to the FCC that such state regulation is active and on-going, the FCC will not assert jurisdiction. The legislative history of the federal enactment indicates that it is Congress' preference that regulation be done by the states.

The petitioning utilities have indicated their preference for state regulation, and the cable system operators, by opposing the petitions, have opted for federal regulation. The decision of this Commission turns upon the construction of our statutes.

#### DISCUSSION

The utilities argue that utility poles are an essential part of the facilities of the regulated utilities, that the amount paid for the use of space on the poles is a "...charge, rental or other compensation for service rendered..." [KRS 278.010(12)], and that this Commission can certify that it considers the interests of cable television ("CATV") consumers, as well as utility customers, in the ordinary course of deciding whether rates are "fair, just and reasonable" under the statutory mandate of KRS 278.190(3).



The intervening CATV operators contend that the pole attachment arrangement is not within the statutory scheme of regulating utility rates and services; that contemporaneous construction by the Commission, the cable operators, and the regulated utilities over the last 25 years has been that the PSC has no jurisdiction over the subject; and that the matter should remain open at least until the General Assembly meets next year. They point out that nowhere in the statute is there any mention of CATV or pole rentals. Moreover, they rely heavily on Benzinger et al. v. Union Light, Heat & Power Co., 293 Ky. 747, 170 S.W.2d 38 (1943), which upheld the police power of a city to require utility wires to be buried by putting a restrictive interpretation on the statutory language empowering the Commission to regulate the "service" of a utility.

KRS 278.040 states that the Public Service Commission has jurisdiction over all the utilities in this state, and that the Commission shall have exclusive jurisdiction over the rates and service of those utilities. The petitioning utilities unquestionably are "utilities" within the meaning of KRS 278.010, and therefore, the question before us is whether the service of providing space on existing utility poles (and the rates charged therefor) are "rates" and "services" within the purview of this Commission under KRS 278.040.

The term "rate" is defined in Chapter 278, as follows:

(12) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof. [KRS 278.010(12)].

The term "service" is even broader, being couched in non-exclusive language:

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility...[KRS 278.010(13)] (Emphasis supplied).

The term "utility service" or "utility services" is not defined in the statutes at all.

Whether or not it was contemplated at the time of the original enactment of this statute, the petitioning utilities are clearly providing a "service" when they allow CATV operators, for a fee, to attach their cables to unused space on existing utility poles. The availability of this unused space on the poles (and the arrangements that have been made between the utilities and the cable operators) has greatly contributed to the development of the cable television industry in recent years.

The Commission concludes that the term "service" as used in KRS 278.040 has two levels. First, there is the primary meaning: that service to the public of the type for which the utility business was formed, thereby subjecting it to the jurisdiction of the PSC. Second, there is a service which arises out of the presence of or the use of the utility facilities. While this is not contemplated in considering whether the business of the utility is regulable, it still is a source of revenue to the utility which ultimately results in lower basic "rates" to the ultimate consumers of utility services. For this reason, Benzinger must be read as deciding only what was before the Court: that the PSC was not granted jurisdiction over those parts of the utility's operations which come within the "police powers" of a municipality. The Court's attempted definition and distinction between "essential utility functions" and "other functions" is awkward and difficult to apply. Since such distinction was not necessary to the court's decision, it should be considered dictum only. Neither petitioners nor intervenors contend that the regulation of rates, terms and conditions of pole attachments comes within the police powers of municipalities.

Therefore, the PSC may regulate these services without determining whether the activity is a "utility" function. The jurisdiction of the PSC over the affected

utility companies has been established. That jurisdiction also extends to their poles, which are an integral part of their facilities. In the instant case, the Commission is called upon to approve the "rate" the utilities are charging for the use of a previously unused part of these facilities. While this may not be one of the "services" contemplated when the statutory definition was created in 1934, nor even a "public utility" activity generally, it is clearly a "service" within the broad definition set forth in KRS 278.010. Because of their monopoly status, such services should be regulated in the public interest.

Intervenors argued at the hearing that revenues from pole attachment charges are like "money from the wife's folks," i.e., that since the utility already has the pole in place and there is unused space on the pole, any charge therefor is "reasonable." However, this Commission is of the opinion that all utility facilities should be operated to produce the optimal results; that if a utility facility can produce revenue from other uses without interference with essential utility operations, it must do so, and for a fair, just and reasonable rate. In turn, the revenue from such "other uses" reduces, pro tanto, the revenue that must be earned from conventional utility services rendered by the utility, thereby lowering the utility consumers' overall rate.

Both the petitioning utilities and intervening cable operators should be proud of a record of 25 years of increasingly heavy usage of utility pole space without a serious safety question having been presented to this Commission for its adjudication. This speaks well for the negotiation and drafting of the agreements whereunder the attachments are permitted, as well as the operations of the personnel of both groups in the field. However, if there were serious questions as to the safety practices of any utility allowing the use of its poles by another entity, this Commission has little doubt that it would invoke its jurisdiction to correct it.

KRS 278.260 expressly empowers the Commission to investigate "any rate," pursuant to complaint or upon its own motion, which may be "unreasonable or unjustly discriminatory," or "any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith" which may be "unreasonable, unsafe, insufficient or unjustly discriminatory...." (Emphasis supplied). Thus, viewed as whole, it is clear that the statutory scheme set forth in KRS Chapter 278, except as limited by the police power of municipalities, confers plenary jurisdiction over all "utilities" and their "facilities."

As to certification to the FCC required by the federal statute that this agency "...does consider the interest of the subscribers of the cable television services as well as the interests of the consumers of the utility services," this Commission adopts the view expressed in a recent opinion of the Appellate Court of Illinois:

Since we have concluded that the Commission has the power to regulate leasing activities it follows that it is under the mandate to assure that the charges are "just and reasonable". Fulfilling that mandate necessarily entails balancing the interests of Cable TV subscribers with the other interests at stake; such balancing is all that the federal statute can reasonably be read to require. (Emphasis supplied). Cable Television Company of Illinois v. Illinois Commerce Commission, 82 Ill. App.3d 814, 403 N.E.2d 287, 290 (1980).

Thus, in exercising our jurisdiction over pole attachment rates, this Commission will consider the interests of the subscribers of cable television services as well as the interests of the consumers of utility services.

The electric utilities petition the Commission to allow them to file pole attachment agreements as "Special Contracts," under 807 KAR 50:025(11), while the telephone utilities have proposed that they file tariffs for this service. For the present, it seems preferable that the rates to be charged for CATV pole attachments, and the terms and conditions upon which the use is accomplished, be as

uniform as possible throughout each utility's service area. Hence it is preferable that all regulated utilities providing such pole space file tariffs for this service. In the event there are, or may later be, special circumstances calling for different rates, terms or conditions in a particular situation, then such arrangements may be handled under the "Special Contracts" provision of the regulations.

The Commission, having considered this matter, including the testimony at the public hearing and all briefs and correspondence of record, and being advised, is of the opinion and finds that:

1. Providing space on utility poles by utilities regulated by this Commission for cable television pole attachments is a "service" within the meaning of the definition of KRS 278.010(13);

2. The rates, terms and conditions for providing such pole attachment space are within the jurisdiction of the Commission under KRS 278.010(12) and KRS 278.040; and

3. Under KRS 278.030 and KRS 278.040, this Commission has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services, in the exercise of its jurisdiction over utility rates and utility services.

IT IS THEREFORE ORDERED that all utilities regulated by this Commission which provide pole attachment space for cable television systems shall file tariffs within 45 days of the date of this Order, setting forth the rates, terms and conditions therefor in the manner prescribed by the Regulations of this Commission.

IT IS FURTHER ORDERED that the Secretary shall certify to the Federal Communications Commission that this Commission regulates pole attachment rates, terms and conditions, and that this Commission has the authority to consider, and does consider, the interests of the subscribers of cable television services as well as the interests of the consumers of the utility services, as provided in 47 U.S.C. § 224(c)(2).

Done at Frankfort, Kentucky this 26th day of August, 1981.

By the Commission

ATTEST:

---

Secretary



COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the Matter of

THE REGULATION OF RATES, TERMS	)	
AND CONDITIONS FOR THE PROVISION	)	
OF POLE ATTACHMENT SPACE TO CABLE	)	CASE NO. 8040
TELEVISION SYSTEMS BY TELEPHONE	)	
COMPANIES	)	

and

In the Matter of

THE REGULATION OF RATES, TERMS	)	
AND CONDITIONS FOR THE PROVISION	)	
OF POLE ATTACHMENT SPACE TO CABLE	)	CASE NO. 8090
TELEVISION SYSTEMS BY ELECTRIC	)	
UTILITIES	)	

I, Richard D. Heman, Jr., Secretary of the Public Service Commission, do hereby certify that the foregoing is a true and correct copy of the Commission's Order entered August 26, 1981, in the above cases. I further certify that the Public Service Commission regulates pole attachment rates, terms and conditions effective with the date of the foregoing Order, August 26, 1981.

IN WITNESS WHEREOF, I have hereunto  
subscribed my name and affixed the  
Seal of said Commission this 9th  
day of September 1981.

Richard D. Heman Jr.  
Secretary

## FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

September 10, 1981

IN REPLY REFER TO:

Mr. Richard D. Heman, Jr.  
Secretary, Kentucky Public  
Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, Kentucky 40602

Dear Mr. Heman:

Your letter of August 31, 1981 states that the Kentucky Public Service Commission regulates rates, terms, and conditions for pole attachments. However, your certification lacks the statement required by Section 1.1414(d) of the Commission's Rules, 47 C.F.R. §1.1414(d) (copy enclosed), that you have lawful delegated authority under provisions of state law to submit such certification, and citing the law, regulation or other instrument conferring such authority. Therefore, we cannot accept Kentucky's certification until we receive this additional statement.

Should you have any questions about the required information needed for certification, please contact us. Inquiries may be directed to Margaret Wood, Chief, Pole Attachments Branch, Tariff Division, Common Carrier Bureau (Tel. No. 202-254-8100).

Sincerely,

Jay L. Witkin  
Chief, Tariff Division  
Common Carrier Bureau

Enclosure

LCain:scc/CC



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

August 31, 1981

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D. C. 20554

Dear Sir:

Pursuant to the Commission's directive, enclosed find  
Certification regarding the regulation of pole attachment  
rates, terms and conditions (cable television systems).

Very truly yours,

PUBLIC SERVICE COMMISSION

*Richard D. Heman, Jr.*  
Richard D. Heman, Jr.  
Secretary

RDH/jc

Enclosure

*McConway - Mr. Heman's office*  
*Ann Parker - GLS given*  
*Showered - 9/8 - informed of deficiency and assured*  
*that it will be remedied (by Mr. Heman)*  
*LHj*

RECEIVED

SEP 4 3 44 PM '81  
TARIFF DIVISION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RE: POLE ATTACHMENTS - Cable Television Systems

I, Richard D. Heman, Jr., Secretary of the Public Service Commission, do hereby certify that this Commission regulates pole attachment rates, terms and conditions, and that this Commission has the authority to consider, and does consider, the interests of the subscribers of cable television services as well as the interests of the consumers of the utility services, as provided in 47 U.S.C. § 224(c)(2).

IN WITNESS WHEREOF, I have hereunto  
subscribed my name and affixed  
the Seal of said Commission this  
31st day of August 1981.

Richard D. Heman Jr.  
Secretary